HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2103 OF 2005.

Shri Sambhaji Maruti Pawar. ...Applicant

V/s.

The State of Maharashtra. ...Respondent

Shri Jehangir Khajotia, advocate for applicant.

Shri K.V.Saste, APP for State.

CORAM: A.M.KHANWILKAR,J
DATE : APRIL 6, 2005

P.C. :-

1. Heard the counsel for the parties.

2. Perused the record.

3. The substance of the argument canvassed on behalf of the applicant is that the offence registered is afterthought and to falsely implicate the applicant so as to persecute the applicant. According to the applicant, it is in essence a civil dispute between the parties. According to the applicant, in lieu of the residential flat, possession whereof, was to be given to the applicant, has handed over possession of shop unit to the complainant and the complainant has been utilising the said shop unit from March, 2004 to

December, 2004. This fact was specifically pressed into service on the previous date of hearing.

4. The learned APP was told to instruct the concerned Investigating Officer to ascertain this position. Today, the learned APP states that the Investigating Officer has recorded the statements of the complainant and her husband. However, no independent enquiry has been made by the Investigating Officer. In that, neither the neighbouring occupants of the said shop unit or such other independent person has been examined. It is obvious that Investigating Officer is acting under the dictation of the complainant. If this is the nature of investigation which is being conducted, there is every possibility that applicant is being persecuted by the complainant.

5. Taking overall view of the matter, in my opinion, this is a fit case for grant of anticipatory bail. Accordingly, the application is allowed in the following terms.

(i) The applicant is granted anticipatory bail in connection with the C.R.No.I-22/2005 registered at Badlapur Police Station on executing Personal Bond in the sum of Rs.10,000/-

with two local sureties in like amount.

(ii) The applicant shall not influence any prosecution witnesses or tamper any prosecution evidence in any manner, whatsoever.

(iii) The applicant shall co-operate the Investigating Officer for the purpose of investigation and attend the concerned police station as and when called upon for that purpose.

(iv) This relief shall enure in favour of the applicant till filing of the chargesheet. On filing of the chargesheet, it will be open for the applicant to file application for bail which will be decided on its own merit by the trial court.

. The application is disposed of accordingly.